IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 12TH SEPTEMBER 2007 / 21ST BHADRA 1929

Bail Appl..No. 5246 of 2007()

CRIME NO.202/07 OF KALPAKANCERY POLICE STATION

.....

PETITIONER : ACCUSED NO.2

ABDUL OFFAR PULIKKATHODI,S/O.KUNHAMMAD
PULIKKATHODI,PULIKKATHODI HOUSE,RANDATHANI P.O,
MALAPPURAM DIST.
KALPAKANCHERY POLICE STAION.

BY ADV. SRI.T.K.SAIDALIKUTTY
SRI.LAL K.JOSEPH
SRI.A.A.ZIYAD RAHMAN
SMT.SHEENA SAMUEL

RESPONDENTS:

---

1. THE SUB INSPECTOR OF POLICE,
KALPAKANCERY POLICE STATION.

2. THE STATE REPRESENTED BY THE PUBLIC
PROSECUTOR,HIGH COURT OF KERALA,ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 12/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No.5246 of 2007

Dated this the 12th day of September, 2007

ORDER

Application for anticipatory bail. The petitioner faces allegations under Section 7 read with 14 of the Foreigner's Act. The crux of the allegations against the petitioner is that a foreign national came and resided in his house, but he failed/omitted to report such residence to the authorities concerned.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. The foreign national is a person of Indian origin, submits the learned counsel for the petitioner. His wife is admittedly a person of Indian origin. The said foreign national had come into India in search of his roots. He was directed to the petitioner by some other person. That foreign national had come to the petitioner. He had not stayed with the petitioner. Even assuming that he had stayed with the petitioner, the petitioner is not, under law, bound to report the fact to any authorities, as the petitioner does not run any boarding house/lodge for consideration. In any view of the matter, the alleged offences, even assuming that all the allegations are true, are only technical in nature. Admittedly the foreign national has no terrorist, subversive or smuggling activities to his credit. No

one has a case that he had come to India with any objectionable motives. In these circumstances, even assuming the entire allegations to be true, the petitioner may not be left to endure the undeserved trauma of arrest and detention merely for the reason that he had played a host to such a person who had come to India with no objectionable motives and purposes.

3. The learned Public Prosecutor does not oppose the prayer for anticipatory bail and I am satisfied that the petitioner can be granted anticipatory bail subject of course to appropriate conditions, which shall facilitate a fair, efficient and expeditious investigation.

4. In the result, the Bail Application is, allowed. The following directions are issued under Section 438 Cr.P.C.

i) The petitioner shall appear before the learned Magistrate at 11 a.m on 19.09.2007. He shall be enlarged on regular bail on his executing a bond for Rs.25,000/- (Rupees Twenty Five thousand only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate;

ii) The petitioner shall make himself available for interrogation before the Investigating Officer between 10 a.m and 3 p.m on 20.09.2007 and thereafter between 10 a.m and 12 noon on all Mondays for a period of one month. Subsequently the petitioner shall

make himself available for interrogation before the Investigating Officer as and when directed by the Investigating Officer in writing to do so;

iii) If the petitioner does not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioner and deal with him in accordance with law as if those directions were not issued at all;

iv) If the petitioner were arrested prior to his surrender on 19.09.07 as directed in clause (1) above, he shall be released from custody on his executing a bond for Rs.25,000/- (Rupees Twenty Five thousand only) without any sureties undertaking to appear before the learned Magistrate on 19.09.07.

(R.BASANT, JUDGE)

rtr/-